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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

8

Application Number

10/826,919

Filing Date

April 16, 2004

First Named Inventor

Alexander Deiters

Group Art Unit

1632

Examiner Name

Unassigned

Attorney Docket Number

54-000250US

ENCLOSURES (check all that apply)

- ☐ Fee Transmittal Form
☐ Fee Attached
☐ Amendment / Response
☐ Amendment and Request for Reconsideration
☐ Affidavits/declaration(s)
☐ Extension of Time Request
☒ Receipt Acknowledgement Postcard
☐ Information Disclosure Statement
☐ Certified Copy of Priority Document(s)
☐ Response to Missing Parts/ Incomplete Application
☐ Response to Missing Parts under 37 CFR 1.52 or 1.53

- ☐ PTO-1449 Form
☐ Cited References
☐ Copy of PCT Search Report
☐ Copy of EP Search Report
☐ Petition to Convert to a Provisional Application
☐ Power of Attorney, Revocation Change of Correspondence Address
☐ Terminal Disclaimer
☐ Small Entity Statement
☐ Request for Refund

- ☐ Interview Summary
☐ Request for Continued Examination (RCE)
☒ Communication to Examiner
☒ Copy of action dated May 17, 2007
☐ Status Letter
☐ Additional Enclosure(s) (please identify below):

Authorization to Charge Deposit Account

Please charge Deposit Account No. 50-0893 for any additional fees associated with this paper or during the pendency of this application, including any extensions of time for consideration of the documents enclosed.

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm
or
Individual name

Jonathan Alan Quine, Reg. No. 41,261, Quine Intellectual Property Law Group, P.C.

Signature

Date

July 17, 2007

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Typed or printed name

Deborah Berwick

Signature

Date

July 17, 2007



CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service first class mail in an envelope addressed to:
MAIL STOP AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450,
on July 17, 2007

QUINE INTELLECTUAL PROPERTY LAW GROUP, P.C.

By: Deborah Berwick

Deborah Berwick

Appl. No. :	10/826,919	Confirmation No. 1323
Applicant :	Alexander Deiters, et al.	
Filed :	April 16, 2004	
TC/A.U. :	1632	
Examiner :	Kagnew H. Gebreyesus	
Docket No. :	54-000250US	
Customer No. :	22798	
Client Ref No.:	983.5/NOV0359P	

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

COMMUNICATION TO EXAMINER

Dear Examiner Gebreyesus:

In response to the Communication mailed May 17, 2007, Applicants note that a regular response cannot be made. The action dated May 17, 2007 contains a cover sheet with the case information of the application noted above. The body of the action contains information related to USSN 10/676,902, filed on October 1, 2003 (i.e., an unrelated case). A copy of the action received is attached with this communication. This case, which is also handled by the examiner of record, is not associated with the Applicant or the case noted above. PAIRS shows the same miss-associated paperwork.

Applicants request the re-issuance of the restriction requirement in order to properly apprise Applicants of the intended restriction.

It is believed that no fee is due. If a fee is due, please charge Deposit Account No. 50-0893.

Appl. No.: 10/826,919

Page 2

QUINE INTELLECTUAL PROPERTY LAW GROUP

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PTO Customer No.: **22798**

Deposit Account No.: **50-0893**

Attachments:

- 1) A transmittal sheet;
- 2) A Copy of the Action dated May 17, 2007; and,
- 3) A receipt indication postcard.

Respectfully submitted,

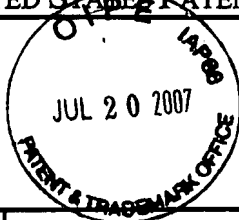
A handwritten signature in black ink, appearing to read "Jonathan Alan Quine". The signature is stylized with a large, looping initial "J" and a distinct "A" and "Q".

Jonathan Alan Quine

Reg. No: 41,261



UNITED STATES PATENT AND TRADEMARK OFFICE



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/826,919	04/16/2004	Alexander Deiters	54-000250US	1323

22798 7590 05/17/2007
QUINE INTELLECTUAL PROPERTY LAW GROUP, P.C.
P O BOX 458
ALAMEDA, CA 94501

RECEIVED**MAY 22 2007**

Quine Intellectual Property Law Group, P.C.

EXAMINER

GEBREYESUS, KAGNEW H

ART UNIT **PAPER NUMBER**

1656

MAIL DATE **DELIVERY MODE**

05/17/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

*Restriction Requirement***RESPONSE DUE** June 17, 2007**DOCKETED***May 22, 2007 -DB*

Office Action Summary

Application No.

10/826,919

Applicant(s)

DEITERS ET AL

Examiner

Kagnew H. Gebreyesus

Art Unit

1656

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-61 is/are pending in the application.
- 4a) Of the above claim(s) 1-51, 60 and 61 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 52-59 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after allowance or after an Office action under *Ex Parte Quayle*, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935). Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on December 22nd, 2007 has been entered.

Specification: On page 3 of the specification, ~~delete~~ hyperlink: "(http://afmb.cnrs-mrs.fr/CAZY/)".

Replace line 1-7 of claim 74 with:

An isolated glycoside hydrolase 61 (GH-61) polypeptide which is selected from the group consisting of:

(a) a polypeptide that has an amino acid sequence which has at least 95% identity to: amino acids 1-216 of SEQ ID NO: 2, amino acids 1-304 of SEQ ID NO: 4, or amino acids 1-204 of SEQ ID NO: 6;

(b) a polypeptide which is encoded by a nucleotide sequence which hybridizes under high stringency conditions with any of the following polynucleotide probes:

Claim 86: add at the end of the claim "**respectively**".

Claims 74, 76-77, 79-80, 82-101 are allowed.

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The closest prior art to the invention in the instant application comprises f Saloheimo et al., (1997) or Ito et al (2001) who teach GH61 polypeptides. However Saloheimo et al., (1997) or Ito et al (2001) do not teach the specific sequence of the GH61 taught by Applicants (claims 74-76-77, 79-80, 82-87, 94-101), or a method of preparing an edible product comprising adding a GH61 polypeptide to a dough (claims 88-93).

Furthermore, US PAT 6,365,204 B1 (Spendler et al.) discloses a process of preparing a dough or baked product that comprises an anti-staling amylase. The bread made using this composition shows improved softness. However the specific enzyme disclosed by Spendler et al does not anticipate the specific sequence of the GH61 disclosed by Applicants.

US PAT 5,610,048 (Schulein et al.) discloses a xylanase preparation from Hemicola insolenes DSM 1800 used in a method of preparing wheat bread comprising wheat dough and said xylanase preparation. However the specific enzyme disclosed by Schulein et al does not anticipate the specific sequence of the GH61 disclosed by Applicants.

Thus the isolated polypeptide sequences of SEQ ID NO: 2, 4 and 6 and variants having at least 95% identity to said polypeptide sequences, a method of preparing an edible product using said polypeptides, a composition of dough comprising said polypeptide(s) have not been disclosed by the prior art. Therefore claims 74, 76-77, 79-80, 82-101 are allowed.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kagnew H. Gebreyesus whose telephone number is 571-272-2937. The examiner can normally be reached on 8:30am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathleen Kerr Bragdon can be reached on 571-272-0931. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Kagnew Gebreyesus PhD.

May 14, 2007

KHG


KATHLEEN KERR BRAGDON, PH.D.
SUPERVISORY PATENT EXAMINER